

HONORABLE JUDGE ROBERT J. BRYAN

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

C. P., by and through his parents,
Patricia Pritchard and Nolle Pritchard;
and PATRICIA PRITCHARD,

Plaintiffs,

vs.

BLUE CROSS BLUE SHIELD OF
ILLINOIS,

Defendant.

Case No. 3:20-cv-06145-RJB

**DEFENDANT BLUE CROSS BLUE SHIELD
OF ILLINOIS ANSWER TO PLAINTIFFS'
FIRST AMENDED COMPLAINT**

I. Introduction

1. Blue Cross and Blue Shield of Illinois ("BCBSIL") states that Paragraph 1 of the First Amended Complaint states a legal conclusion and no response is required. BCBSIL states that the Affordable Care Act speaks for itself. BCBSIL further states that the relief requested is not appropriate under the Affordable Care Act.

2. BCBSIL admits that it serves as a third-party administrator for certain employer-provided benefit plans based in Illinois. BCBSIL denies the remaining allegations in Paragraph 2 and all inferences drawn therefrom. In all other respects, denied.

3. Denied.

4. BCBSIL is without knowledge of whether Plaintiff Patricia Pritchard receives health care coverage through the Catholic Health Initiatives Medical Plan "[a]s part of the

1 compensation for her employment,” and therefore denies that allegation. BCBSIL admits the
2 remainder of the allegations in Paragraph 4.

3 5. BCBSIL admits that it provides administrative services for the Plan and
4 administers the Plan according to its terms. BCBSIL denies the remaining allegations in
5 Paragraph 5 and all inferences drawn therefrom.

6 6. BCBSIL admits that the Plan attached to the First Amended Complaint as App. A
7 was effective January 1, 2019 and states that the Plan speaks for itself. BCBSIL denies that all
8 claims submitted by C.P. were submitted under this version of the Plan.

9 7. BCBSIL states that the Plan speaks for itself. In all other respects, denied.

10 8. BCBSIL states that the Plan speaks for itself. In all other respects, denied.

11 9. BCBSIL states that the Plan speaks for itself. In all other respects, denied.

12 10. Denied.

13 11. Paragraph 11 does not require a response. BCBSIL admits that Plaintiffs purport
14 to seek the relief stated. In all other respects, denied.

15 II. PARTIES

16 12. BCBSIL admits that it provides third-party administrative services for the Plan.
17 As to the remaining allegations, BCBSIL is without knowledge and the allegations are therefore
18 denied.

19 13. BCBSIL admits that it provides administrative services for the Plan. BCBSIL
20 admits that Plaintiffs were covered under the Plan at the time of the claims at issue in the
21 complaint. As to the remaining allegations, BCBSIL is without knowledge and the allegations
22 are therefore denied.

23 14. BCBSIL admits that it is a health care services company that offers services as a
24 third-party administrator and also offers insurance products in Illinois. BCBSIL denies that it
25 receives federal financial assistance in relation to its services as a third party administrator.
26 BCBSIL admits that it is the third-party administrator for the Plan in which C.P. was enrolled.
27 BCBSIL admits it is a division of Health Care Service Corporation, a mutual legal reserve

1 company headquartered in Chicago Illinois and that it is not a religious organization.

2 **III. JURISDICTION AND VENUE**

3 15. Admitted. BCBSIL denies that any relief is appropriate under the ACA.

4 16. Admitted.

5 17. Admitted.

6 18. Admitted.

7 19. BCBSIL admits that it is subject to personal jurisdiction in Washington. In all
8 other respects, denied.

9 **IV. FACTUAL BACKGROUND**

10 ***Gender Dysphoria and Its Treatment***

11 20. BCBSIL objects to Paragraph 20 as immaterial and irrelevant to the ultimate
12 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
13 denies the allegations in Paragraph 20 to the extent that they are inconsistent with scientific and
14 medical facts. BCBSIL follows consensus recommendation from the medical community,
15 evidence-based science, specialty society recommendations, and regulations when administering
16 benefits.

17 21. BCBSIL objects to Paragraph 21 as immaterial and irrelevant to the ultimate
18 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
19 denies the allegations in Paragraph 21 to the extent that they are inconsistent with scientific and
20 medical facts. BCBSIL follows consensus recommendation from the medical community,
21 evidence-based science, specialty society recommendations, and regulations when administering
22 benefits.

23 22. BCBSIL objects to Paragraph 22 as immaterial and irrelevant to the ultimate
24 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
25 denies the allegations as stated. BCBSIL follows consensus recommendation from the medical
26 community, evidence-based science, specialty society recommendations, and regulations when
27 administering benefits. BCBSIL denies that there is uniformity of experience among people

1 experiencing gender dysphoria. BCBSIL is without knowledge as to whether this allegation is
2 true as to any specific individual who identifies as transgender.

3 23. BCBSIL objects to Paragraph 23 as immaterial and irrelevant to the ultimate
4 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
5 denies the allegations in Paragraph 23 to the extent that they are inconsistent with scientific and
6 medical facts. BCBSIL follows consensus recommendation from the medical community,
7 evidence-based science, specialty society recommendations, and federal and state regulations
8 when administering benefits.

9 24. BCBSIL objects to Paragraph 24 as immaterial and irrelevant to the ultimate
10 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
11 denies the allegations in Paragraph 24 to the extent that they are inconsistent with scientific and
12 medical facts. BCBSIL follows consensus recommendation from the medical community,
13 evidence-based science, specialty society recommendations, and regulations when administering
14 benefits. BCBSIL denies that there is uniformity of experience among people experiencing
15 gender dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any
16 specific individual who identifies as transgender.

17 25. BCBSIL objects to Paragraph 25 as immaterial and irrelevant to the ultimate
18 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
19 denies the allegations as stated. BCBSIL follows consensus recommendation from the medical
20 community, evidence-based science, specialty society recommendations, and regulations when
21 administering benefits. BCBSIL denies that there is uniformity of experience among people
22 experiencing gender dysphoria. BCBSIL is without knowledge as to whether this allegation is
23 true as to any specific individual who identifies as transgender.

24 26. BCBSIL objects to Paragraph 26 as immaterial and irrelevant to the ultimate
25 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
26 denies the allegations as stated. BCBSIL follows consensus recommendation from the medical
27 community, evidence-based science, specialty society recommendations, and regulations when

1 administering benefits. BCBSIL denies that there is uniformity of experience among people
2 experiencing gender dysphoria. BCBSIL is without knowledge as to whether this allegation is
3 true as to any specific individual who identifies as transgender.

4 27. BCBSIL objects to Paragraph 27 as immaterial and irrelevant to the ultimate
5 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
6 denies the allegations in Paragraph 27 to the extent that they are inconsistent with scientific and
7 medical facts. BCBSIL follows consensus recommendation from the medical community,
8 evidence-based science, specialty society recommendations, and regulations when administering
9 benefits. BCBSIL denies that there is uniformity of experience among people experiencing
10 gender dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any
11 specific individual who identifies as transgender.

12 28. BCBSIL objects to Paragraph 28 as immaterial and irrelevant to the ultimate
13 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
14 denies the allegations in Paragraph 28 to the extent that they are inconsistent with scientific and
15 medical facts. BCBSIL follows consensus recommendation from the medical community,
16 evidence-based science, specialty society recommendations, and regulations when administering
17 benefits.

18 29. BCBSIL objects to Paragraph 29 as immaterial and irrelevant to the ultimate
19 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
20 denies the allegations in Paragraph 29 to the extent that they are inconsistent with scientific and
21 medical facts. BCBSIL follows consensus recommendation from the medical community,
22 evidence-based science, specialty society recommendations, and regulations when administering
23 benefits. BCBSIL denies that there is uniformity of experience among people experiencing
24 gender dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any
25 specific individual who identifies as transgender.

26 30. BCBSIL objects to Paragraph 30 as immaterial and irrelevant to the ultimate
27 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL

1 denies the allegations in Paragraph 30 to the extent that they are inconsistent with scientific and
2 medical facts. BCBSIL follows consensus recommendation from the medical community,
3 evidence-based science, specialty society recommendations, and when administering benefits.
4 BCBSIL denies that there is uniformity of experience among people experiencing gender
5 dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any specific
6 individual who identifies as transgender.

7 31. BCBSIL admits that the World Professional Association for Transgender Health
8 (“WPATH”) has formulated Standards of Care and states that those Standards of Care speak for
9 themselves. In all other respects, denied.

10 32. BCBSIL admits that WPATH has formulated Standards of Care and states that
11 those Standards of Care speak for themselves. In all other respects, denied.

12 33. BCBSIL admits that WPATH has formulated Standards of Care and states that
13 those Standards of Care speak for themselves. In all other respects, denied.

14 34. BCBSIL objects to Paragraph 34 as immaterial and irrelevant to the ultimate
15 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
16 denies the allegations in Paragraph 34 to the extent that they are inconsistent with scientific and
17 medical facts. BCBSIL follows consensus recommendation from the medical community,
18 evidence-based science, specialty society recommendations, and regulations when administering
19 benefits. BCBSIL denies that there is uniformity of experience among people experiencing
20 gender dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any
21 specific individual who identifies as transgender.

22 35. BCBSIL objects to Paragraph 35 as immaterial and irrelevant to the ultimate
23 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
24 denies the allegations as stated. BCBSIL follows consensus recommendation from the medical
25 community, evidence-based science, specialty society recommendations, and regulations when
26 administering benefits. BCBSIL denies that there is uniformity of experience among people
27 experiencing gender dysphoria. BCBSIL is without knowledge as to whether this allegation is

1 true as to any specific individual who identifies as transgender.

2 36. BCBSIL objects to Paragraph 36 as immaterial and irrelevant to the ultimate
3 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
4 denies the allegations as stated. BCBSIL follows consensus recommendation from the medical
5 community, evidence-based science, specialty society recommendations, and when
6 administering benefits. BCBSIL denies that there is uniformity of experience among people
7 experiencing gender dysphoria. BCBSIL is without knowledge as to whether this allegation is
8 true as to any specific individual who identifies as transgender.

9 37. BCBSIL objects to Paragraph 37 as immaterial and irrelevant to the ultimate
10 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
11 denies the allegations as stated. BCBSIL follows consensus recommendation from the medical
12 community, evidence-based science, specialty society recommendations, and regulations when
13 administering benefits. BCBSIL denies that there is uniformity of experience among people
14 experiencing gender dysphoria. BCBSIL is without knowledge as to whether this allegation is
15 true as to any specific individual who identifies as transgender.

16 38. BCBSIL objects to Paragraph 38 as immaterial and irrelevant to the ultimate
17 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
18 denies the allegations in Paragraph 38 to the extent that they are inconsistent with scientific and
19 medical facts. BCBSIL follows consensus recommendation from the medical community,
20 evidence-based science, specialty society recommendations, and regulations when administering
21 benefits. BCBSIL denies that there is uniformity of experience among people experiencing
22 gender dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any
23 specific individual who identifies as transgender. BCBSIL further denies that the services at issue
24 in C.P.'s case were medically necessary according to consensus medical opinion.

25 39. BCBSIL objects to Paragraph 39 as immaterial and irrelevant to the ultimate
26 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
27 denies the allegations in Paragraph 39 to the extent that they are inconsistent with scientific and

1 medical facts. BCBSIL follows consensus recommendation from the medical community,
2 evidence-based science, specialty society recommendations, and regulations when administering
3 benefits. BCBSIL denies that there is uniformity of experience among people experiencing
4 gender dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any
5 specific individual who identifies as transgender. BCBSIL denies that the services at issue in
6 C.P.'s case were medically necessary according to consensus medical opinion.

7 40. BCBSIL objects to Paragraph 40 as immaterial and irrelevant to the ultimate
8 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
9 denies the allegations in Paragraph 40 to the extent that they are inconsistent with scientific and
10 medical facts. BCBSIL follows consensus recommendation from the medical community,
11 evidence-based science, specialty society recommendations, and regulations when administering
12 benefits. BCBSIL denies that there is uniformity of experience among people experiencing
13 gender dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any
14 specific individual who identifies as transgender.

15 41. BCBSIL objects to Paragraph 41 as immaterial and irrelevant to the ultimate
16 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
17 denies the allegations as stated. BCBSIL follows consensus recommendation from the medical
18 community, evidence-based science, specialty society recommendations, and regulations when
19 administering benefits. BCBSIL denies that there is uniformity of experience among people
20 experiencing gender dysphoria. BCBSIL is without knowledge as to whether this allegation is
21 true as to any specific individual who identifies as transgender.

22 42. BCBSIL objects to Paragraph 42 as immaterial and irrelevant to the ultimate
23 factual and legal disputes at issue in this litigation. To the extent an answer is required, BCBSIL
24 denies the allegations in Paragraph 42 to the extent that they are inconsistent with scientific and
25 medical facts. BCBSIL follows consensus recommendation from the medical community,
26 evidence-based science, specialty society recommendations, and regulations when administering
27 benefits. BCBSIL denies that there is uniformity of experience among people experiencing

1 gender dysphoria. BCBSIL is without knowledge as to whether this allegation is true as to any
2 specific individual who identifies as transgender.

3 43. BCBSIL states that the positions taken by the American Medical Association
4 (“AMA”), American Psychological Association (“APA”), American Psychiatric Association,
5 Endocrine Society, American College of Obstetricians and Gynecologists, American Academy
6 of Family Physicians, and other major medical organizations speak for themselves. In all other
7 respects, denied.

8 44. BCBSIL states that the positions taken by the WPATH speak for themselves. In
9 all other respects, denied.

10 ***BCBSIL’s Administration of Health Plans and Exclusions***

11 45. Admitted.

12 46. BCBSIL admits that it administers health benefits plans for certain employer
13 groups headquartered in Illinois.

14 47. Admitted.

15 48. BCBSIL admits that other health benefit plans administered by BCBSIL may
16 contain exclusions denying coverage for gender reassignment surgery. In all other respects,
17 denied.

18 49. BCBSIL states that Resolution 122, passed by the AMA, speaks for itself. In all
19 other respects, denied.

20 50. Denied.

21 51. BCBSIL denies that Section 1557 of the Affordable Care Act defines “health
22 program or activity,” and therefore denies the allegation that “BCBSIL was and remains a ‘health
23 program or activity’ part of which receives federal financial assistance” because Paragraph 51’s
24 use of “health program or activity” is vague, ambiguous and undefined. BCBSIL admits that it
25 administers programs for which it receives federal funds. BCBSIL further denies that Section
26 1557 of the Affordable Care Act defines “covered entity” and, therefore, denies the allegation
27 that “BCBSIL was and continues to be a ‘covered entity’ under the Affordable Care Act, Section

1 1557” because Paragraph 51’s use of “covered entity” is vague, ambiguous, and undefined.
 2 BCBSIL denies that its activities as a third-party administrator are subject to Section 1557 of the
 3 Affordable Care Act and denies the remaining allegations in Paragraph 51.

4 52. BCBSIL denies that Plaintiffs use the correct citation in attempting to support
 5 Paragraph 52’s allegations by referencing 45 C.F.R. § 92.5. BCBSIL states that it complies with
 6 the requirements of 45 C.F.R. § 92.4.

7 53. BCBSIL states that its communications with C.P. and his parents speak for
 8 themselves. In all other respects, denied.

9 54. BCBSIL admits that it provides administrative services for the Plan. In all other
 10 respects, denied.

11 ***The Denial of Care to C.P.***

12 55. BCBSIL is without knowledge and the allegations are therefore denied.

13 56. BCBSIL is without knowledge and the allegations are therefore denied.

14 57. BCBSIL is without knowledge and the allegations are therefore denied.

15 58. BCBSIL admits that it has covered some of C.P. claims and has denied others.

16 59. BCBSIL admits that BCBSIL initially approved C.P.’s request for
 17 preauthorization. BCBSIL denies that the services at issue in C.P.’s case were medically
 18 necessary.

19 60. BCBSIL admits that it paid claims for certain services related to the Vantas
 20 implant.

21 61. BCBSIL admits that C.P.’s mother corresponded with BCBSIL representatives
 22 concerning coverage for the Vantas implant and states that the correspondence speaks for itself.
 23 In all other respects, denied.

24 62. BCBSIL admits that it sent a letter to C.P.’s mother dated April 21, 2017 and
 25 states that the letter speaks for itself.

26 63. BCBSIL admits that C.P.’s parents appealed the denial of coverage in a letter
 27 dated May 25, 2017 and states that the letter speaks for itself.

1 64. BCBSIL admits that it sent a letter to C.P.'s parents dated October 19, 2017
2 regarding C.P.'s appeal and states that the letter speaks for itself.

3 65. BCBSIL admits that it sent a letter to C.P.'s parents dated April 27, 2018
4 regarding C.P.'s appeal and states that the letter speaks for itself. In all other respects, denied.

5 66. Denied. The 2017 Plan did not cover the services at issue.

6 67. BCBSIL admits that the version of the Plan effective January 1, 2018 added an
7 exclusion for Transgender Reassignment Surgery. BCBSIL denies that the version of the Plan
8 attached as App. A has an effective date of January 1, 2018. In all other respects, denied.

9 68. Denied.

10 69. Denied.

11 70. BCBSIL is without knowledge and the allegations are therefore denied.

12 71. BCBSIL admits that the letter attached in App. H was sent and states that the letter
13 speaks for itself. In all other respects, denied.

14 72. BCBSIL is without knowledge and the allegations are therefore denied.

15 73. BCBSIL admits that certain medical and mental health providers for C.P. wrote
16 letters to BCBSIL regarding C.P.'s requests for pre-authorization and states that those letters
17 speak for themselves. BCBSIL denies that the services at issue in C.P.'s case were medically
18 necessary.

19 74. BCBSIL admits that it sent letters dated August 8, 2019 denying C.P.'s requests
20 for pre-authorization and states that the letters speak for themselves.

21 75. BCBSIL is without knowledge and the allegations are therefore denied.

22 76. BCBSIL is without knowledge and the allegations are therefore denied.

23 77. BCBSIL admits that counsel for Plaintiffs sent an appeal letter dated December
24 2, 2019 to the Claims Review Section of BCBSIL.

25 78. BCBSIL admits that it sent a letter dated December 23, 2019 regarding the appeal
26 request and states that the letter speaks for itself. In all other respects, denied.

27 79. BCBSIL admits that certain claims were processed under the Plan. In all other

1 respects, denied.

2 80. Denied.

3 81. Denied.

4 82. Denied.

5 83. Denied.

6 84. Denied.

7 85. BCBSIL is without knowledge and the allegations are therefore denied.

8 86. Denied.

9 87. BCBSIL admits that no further appeal is required before a claim may be brought
10 under § 1557 but denies that a further appeal would be futile. BCBSIL denies that the services at
11 issue in C.P.'s case were medically necessary according to consensus medical opinion. In all
12 other respects, denied.

13 88. Denied.

14 **V. CLASS ALLEGATIONS**

15 89. BCBSIL admits that Plaintiffs purport to bring this action under Rule 23 of the
16 Federal Rules of Civil Procedure. BCBSIL denies that class relief is appropriate.

17 90. BCBSIL admits that Plaintiffs purport to bring claims on behalf of the class
18 proposed herein. BCBSIL denies that any such class is appropriate.

19 91. BCBSIL admits that Plaintiffs purport to bring claims on behalf of the class
20 proposed herein. BCBSIL denies that any such class is appropriate.

21 92. Denied.

22 93. Denied.

23 94. Denied.

24 95. Denied.

25 96. Denied.

26 97. BCBSIL admits that it does business in the Western District of Washington.
27 BCBSIL denies the remaining allegations.

1 98. Denied.

2 **VI. CLAIM FOR RELIEF:**
3 **VIOLATION OF SECTION 1557 OF THE AFFORDABLE CARE ACT,**
4 **42 U.S.C. §18116**

5 99. BCBSIL incorporates its answers to paragraphs 1-98 as if fully set forth herein.

6 100. BCBSIL admits that Plaintiffs purport to seek the relief stated. In all other
7 respects, denied.

8 101. Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116, speaks for itself and
9 no response is required.

10 102. BCBSIL is without knowledge that it is a “covered ‘health program or activity’”
11 because, in Paragraph 102, Plaintiffs cite to no legal authority supporting this allegation, and
12 BCBSIL therefore denies this phrase. BCBSIL further denies that Section 1557 of the Affordable
13 Care Act defines “covered entity” and, therefore, denies the allegation that “[BCBSIL] is...a
14 ‘covered entity’ for purposes of Section 1557” because Paragraph 102’s use of “covered entity”
15 is vague, ambiguous, and undefined. BCBSIL denies that its activities as a third-party
16 administrator are subject to Section 1557 of the Affordable Care Act.

17 103. Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116, speaks for itself and
18 no response is required.

19 104. BCBSIL denies that Section 1557 of the Affordable Care Act defines “covered
20 entity” and, therefore, denies the allegation that “[BCBSIL] is...a ‘covered entity’ for purposes
21 of Section 1557” because Paragraph 104’s use of “covered entity” is vague, ambiguous, and
22 undefined. BCBSIL denies that its activities as a third-party administrator are subject to Section
23 1557 of the Affordable Care Act. In all other respects, denied.

24 105. Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116, speaks for itself and
25 no response is required. To the extent a response is required, BCBSIL denies that Section 1557
26 of the Affordable Care Act defines “covered entity” and, therefore, denies the allegation that
27 “[BCBSIL] is...a ‘covered entity’ for purposes of Section 1557” because Paragraph 105’s use of
“covered entity” is vague, ambiguous, and undefined. BCBSIL denies that its activities as a

1 third-party administrator are subject to Section 1557 of the Affordable Care Act.

2 106. Denied.

3 107. Denied.

4 108. Denied.

5 109. Denied.

6 110. Denied.

7 111. Denied.

8 112. Denied.

9 113. Denied.

10 **VII. DEMAND FOR RELIEF**

11 BCBSIL denies the unnumbered WHEREFORE clause in the Demand for Relief in the
12 Complaint.

13 1. No response to Paragraph 1 in Plaintiffs' Demand for Relief is required. To the
14 extent a response is required, BCBSIL denies that Plaintiffs and the members of the proposed
15 class are entitled to any judgment.

16 2. No response to Paragraph 2 in Plaintiffs' Demand for Relief is required. To the
17 extent a response is required, BCBSIL denies that it violated the rights of Plaintiffs or the
18 members of any proposed class.

19 3. No response to Paragraph 3 in Plaintiffs' Demand for Relief is required. To the
20 extent a response is required, BCBSIL denies that Plaintiffs are entitled to any injunctive or other
21 type of relief.

22 4. No response to Paragraph 4 in Plaintiffs' Demand for Relief is required. To the
23 extent a response is required, BCBSIL denies that Plaintiffs are entitled to an order requiring
24 BCBSIL to reprocess or provide coverage for any denied pre-authorizations or denied claims for
25 coverage.

26 5. No response to Paragraph 5 in Plaintiffs' Demand for Relief is required. To the
27 extent a response is required, BCBSIL denies that the named Plaintiffs are entitled to any

1 judgment.

2 6. No response to Paragraph 6 in Plaintiffs' Demand for Relief is required. To the
3 extent a response is required, BCBSIL denies that Plaintiffs are entitled to any attorneys' fees,
4 costs, or expenses.

5 7. No response to Paragraph 7 in Plaintiffs' Demand for Relief is required. To the
6 extent a response is required, BCBSIL denies that Plaintiffs are entitled to any other type of relief.

7 **GENERAL DENIAL**

8 BCBSIL further denies any allegation or paragraph in Plaintiffs' Complaint that has not
9 been specifically admitted in this Answer.

10 **AFFIRMATIVE DEFENSES**

11 By setting forth the defenses below, BCBSIL does not assume any burden not placed on
12 BCBSIL under applicable law.

13 **FIRST AFFIRMATIVE DEFENSE**

14 Plaintiffs' Complaint fails to state a cause of action for which relief may be requested.

15 **SECOND AFFIRMATIVE DEFENSE**

16 Plaintiffs lack Article III standing to assert their claims because the treatments Plaintiffs
17 seek are not medically necessary and, as a result, Plaintiffs fail to alleged the injury, causation,
18 or redressability required by Article III.

19 **THIRD AFFIRMATIVE DEFENSE**

20 Plaintiffs' complaint is barred because the exclusion at issue in the Plan does not
21 discriminate on the basis of sex according to federal regulations and case law.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 Plaintiffs' complaint is barred because the Religious Freedom and Restoration Act
24 ("RFRA"), 42 U.S.C. § 2000bb *et seq.*, permits the exclusion at issue.

25 **FIFTH AFFIRMATIVE DEFENSE**

26 Plaintiffs' claims are barred, in whole or in part, to the extent any damages suffered by
27 Plaintiffs were proximately caused by persons and/or entities that are neither agents nor

1 employees of BCBSIL, and no legal or factual basis exists for imposing liability upon BCBSIL
2 for the acts or omission of any such other persons and/or entities.

3 **SIXTH AFFIRMATIVE DEFENSE**

4 Plaintiffs' claims are barred because Plaintiffs have received all benefits to which they
5 are entitled under the terms of any plan, and have not been denied any benefits to which they are
6 entitled under any plan.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 Plaintiffs have not suffered any cognizable damages, and to the extent they have suffered
9 any such damages, they failed to mitigate those damages.

10 **EIGHTH AFFIRMATIVE DEFENSE**

11 Plaintiffs' claims are barred to the extent they seek relief or remedies not available under
12 ERISA.

13 **NINTH AFFIRMATIVE DEFENSE**

14 To the extent that Plaintiffs allege that BCBSIL was acting in a fiduciary capacity,
15 BCBSIL acted with good faith, reasonable care, skill, prudence, and diligence under the
16 circumstances.

17 **TENTH AFFIRMATIVE DEFENSE**

18 Plaintiffs' demand for attorneys' fees should be denied because BCBSIL's defenses to
19 this action are reasonable and made in good faith.

20 **ELEVENTH AFFIRMATIVE DEFENSE**

21 BCBSIL reserves the right to assert all contractual terms, limitations, and exclusions of
22 the applicable health insurance contract as facts are revealed during discovery in this case.

23 **TWELFTH AFFIRMATIVE DEFENSE**

24 Plaintiffs, by their own acts and omissions, have waived any and all of their alleged rights
25 to pursue the claims raised in the Complaint against BCBSIL.

26 **THIRTEENTH AFFIRMATIVE DEFENSE**

27 Plaintiffs are estopped from asserting each and every claim for relief contained in the

1 Complaint against BCBSIL and such estoppels bar Plaintiffs from obtaining any recovery,
2 equitable or otherwise.

3 **FOURTEENTH AFFIRMATIVE DEFENSE**

4 BCBSIL reserves the right to amend and/or supplement these responses and Affirmative
5 Defenses.

6 DATED this 9th day of December, 2021.

7 KILPATRICK TOWNSEND & STOCKTON LLP

8 By /s/ Gwendolyn C. Payton
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12 *Counsel for Blue Cross Blue Shield of Illinois*
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CERTIFICATE OF SERVICE

I certify that on the date indicated below I caused a copy of the foregoing document, DEFENDANT BLUE CROSS BLUE SHIELD OF ILLINOIS ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT to be filed with the Clerk of the Court via the CM/ECF system. In accordance with their ECF registration agreement and the Court's rules, the Clerk of the Court will send e-mail notification of such filing to the following attorneys of record:

Eleanor Hamburger SIRIANNI YOUTZ SPOONEMORE HAMBURGER 3101 WESTERN AVENUE STE 350 SEATTLE, WA 98121 206-223-0303 Fax: 206-223-0246 Email: ehamburger@sylaw.com	<input checked="" type="checkbox"/> by CM/ECF <input type="checkbox"/> by Electronic Mail <input type="checkbox"/> by Facsimile Transmission <input type="checkbox"/> by First Class Mail <input type="checkbox"/> by Hand Delivery <input type="checkbox"/> by Overnight Delivery
Jennifer C Pizer LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC 4221 WILSHIRE BLVD., STE 280 LOS ANGELES, CA 90010 213-382-7600 Email: jpizer@lambdalegal.org	<input checked="" type="checkbox"/> by CM/ECF <input type="checkbox"/> by Electronic Mail <input type="checkbox"/> by Facsimile Transmission <input type="checkbox"/> by First Class Mail <input type="checkbox"/> by Hand Delivery <input type="checkbox"/> by Overnight Delivery
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DATED this 9th day of December, 2021.

**KILPATRICK TOWNSEND & STOCKTON
LLP**

By: /s/ Gwendolyn C. Payton
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